

REMARKS

Careful examination of the application is sincerely appreciated.

Claims are not amended for substantive reasons, but to place them in better form for appeal.

According to the Office Action, claims 1 and 3-8 were rejected under 35 U.S.C. §103 as being obvious over U.S. Patent No. 6,330,597 (hereinafter "Collin") in light of U.S. Published Application 2002/0156881 (hereinafter "Klopp Lemon").

In response, the rejections are respectfully traversed as lacking sufficient factual support and failing to establish a prima facie case of obviousness in accordance with the established cases and statutory law.

Collin is directed to a system and method for monitoring, controlling, or configuring communication parameters between two communication devices. In particular, according to Collin, a software module interacts with the communications link and adjusts the parameters of one or both communications devices based on retrieved parameters and/or data passing through the link.

In the Office Action, the Examiner concedes that Collin fails to teach or suggest, among other things, Applicant's feature of "intercepting the monitored communication in order to determine a protocol between the data processing device and the network access device" as recited in Applicant's claim 1, for example. To cure this deficiency, the Examiner relies on Klopp Lemon.

Klopp Lemon is directed to a method and system for monitoring data flow in a web application, particularly during **testing and debugging of the web application**.

It appears that the examiner refers to Klopp Lemon's data collector 15 for the alleged correspondence with the claimed features of the present invention. According to the reference, data collector 15 runs on a server and collects data from the HTTP requests and the HTTP responses. Further according to the reference, the IDE 6 includes a mechanism through which the data collector 15 can notify the HTTP transaction monitor 14 of requests processed by the execution server 10.

Clearly, the data collector 15 does not determine a protocol between the data processing device and the network access device, as recited in Applicant's claim 1. Klopp Lemon's data collector 15 does not disclose such a function: the data collector 15 merely collects data for display on the client-side.

Furthermore, Klopp Lemon's data collector 15 fails to teach or suggest Applicant's feature of "extracting information from the intercepted communication for configuring an interface between the data processing device and the network access device according to the determined protocol" as recited in claim 1. As pointed out above, the data collector 15 does not determine a protocol, and it follows that it cannot possibly configure an interface **according to the determined protocol**. This feature is not taught or suggested in the reference.

In addition, it is not clear what element in Klopp Lemon allegedly corresponds to Applicant's interface. The examiner failed to address this issue in the Final Office Action.

Still further, it is respectfully submitted that the Examiner does not provide any credible suggestion or motivation to supplement Collin with Klopp Lemon. The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation,

either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Contrary to the Examiner's assertion in the Office Action, there is no motivation or suggestion to augment Collin with the teaching of Klopp Lemon because the two references are incompatible.

At least for the above reasons, Applicant submits that the rejection of claim 1 has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

Analysis of independent claims 5 and 8 is analogous to the one of claim 1, as presented hereinabove. To avoid repetition, claims 5 and 8 will not be discussed in detail with the understanding that they are patentable at least for the same reasons as claim 1. Applicant, therefore, respectfully requests withdrawal of the rejection and allowance of claims 5 and 8.

Claims 3, 4, 6 and 7 depend, either directly or indirectly, from independent claims 1 and 5, which have been shown to be allowable over the prior art reference. Accordingly, these claims are also allowable by virtue of their dependency from the allowable base claims. Applicant submits that the reason for the rejection of claims 3, 4, 6 and 7 has been overcome and respectfully requests withdrawal of the rejection and allowance of those claims.

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case. In view of the above amendments and remarks, it is

believed that the present application is in condition for allowance, and an early notice thereof is earnestly solicited.

Please charge any additional fees associated with this application to Deposit Account No. 14-1270.

Respectfully submitted,

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